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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,753	08/30/2001	Maria Azua Himmel	AUS920010452US1	9988
35525	7590	03/23/2006		
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			EXAMINER LASTRA, DANIEL	
			ART UNIT 3622	PAPER NUMBER

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/942,753

Applicant(s)

HIMMEL ET AL.

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-27 have been examined. Application 09/942,753 (INCENTIVE CALL MINUTES) has a filing date 08/30/2001.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8-15, 17-24, 26 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Racov (US 2002/0152179).

As per claims 1, 10 and 19, Racov teaches:

A method comprising:

in response to a commercial transaction, crediting an account of telephone call minutes with a number of additional call minutes commensurate with the commercial transaction (see paragraphs 100 and 101).

As per claims 2, 11 and 20, Racov teaches:

The method of claim 1, wherein the account of telephone call minutes is an account of mobile telephone airtime minutes (see paragraph 101).

As per claims 3, 12 and 21, Racov teaches:

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The method of claim 1, wherein the account of telephone call minutes is an account of pre-paid long-distance call minutes (see paragraph 101).

As per claims 4, 13 and 22, Racov teaches:

The method of claim 1, wherein the commercial transaction is a purchase (see paragraphs 105-106).

As per claims 5, 14 and 23, Racov teaches:

The method of claim 4, wherein the number of additional call minutes is commensurate with the amount of the purchase (see paragraph 100).

As per claims 6, 15 and 24, Racov teaches:

The method of claim 4, wherein the purchase is made over the Internet (see paragraphs 109 and 113).

As per claims 9, 18 and 27, Racov teaches:

The method of claim 1, further comprising: reading an identification code identifying the account of telephone call minutes from an identification device at a point-of-sale terminal; and processing the commercial transaction at the point-of-sale terminal (see paragraph 65).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 7, 16 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Racov (US 2002/0152179).

As per claims 7, 16 and 25, Racov teaches:

The method of claim 1, but does not expressly teach wherein the commercial transaction is a rental agreement. Racov teaches that his system provides customers with a loyalty bonus for using the remote payment account, which includes additional airtime minutes from the mobile company activating the communication devices and where said bonus is based upon volume of transaction activity or the value of such transactions (see paragraph 32). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that a rental agreement would be a merchant's transaction and therefore, said transaction would help customers earn airtime minutes loyalty bonus. The type of merchant would not patentably distinguish the claimed invention from the prior art.

Claims 8, 17 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Racov (US 2002/0152179) in view of Sanchez (US 2002/0174011).

As per claims 8, 17 and 26, Racov teaches:

The method of claim 1, but fails to teach wherein the commercial transaction is a product test. However, Sanchez teaches that incentive programs offer awards and incentives to modify behavior of individual consumers and to direct the consumer to some pre-determined action, such as purchase of products or services upon visiting a retailer, viewing advertising, testing a product or the like. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to

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know that merchants participating in the Racov's system would utilize customers' loyalty data to determine if said customers fall into said merchants' preferred customer profiles in order to notify said customers of offers such as testing merchants' products or services which would increase said customers awareness of said merchant's products or services and which would increase the probability that said customers would buy said products or services.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Gardenswartz teaches a system that gives customers incentive minutes based upon said customers' point of sale transactions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

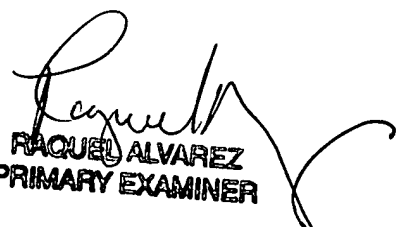
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Lastra

March 12, 2006



RAQUEL ALVAREZ
PRIMARY EXAMINER